

Jan. 25, 2011

Subject: SB 148

Dear Senate Ag., Livestock and Irrigation Committee Members:

Please consider these comments on behalf of the Gallatin Wildlife Association in regards to SB 148. We support SB 148 and its intent to ensure the Department of Livestock secures permission from private landowners before entering private property to "manage" bison, but we would like to suggest some amendments.

There is a section that needs to be struck (section J page 3 lines 27, 28 & 29), which deals with notifying private landowners of a hunt. This is an unnecessary burden on the FWP as landowner permission is already required before entering private property to hunt. Also, we are concerned that section 2 (C) on page 2 lines 12-15 creates a loop hole that any given administration/governor could use to get access to private property without permission by asserting there is a public health or safety risk when there really isn't one. We believe the statement on page 2, line 9 which requires the DOL to get permission before entering private property is respectful of private property rights and is similar to the requirements already placed on FWP under MCA 87-1-229, and that is a good thing.

It is important for the committee to realize that the property rights of those threatened or uncomfortable with bison are already protected under current law at MCA 81-2-121, which allows them to take a bison if the DOL does not remove the bison in a timely fashion at their request.

Private property rights are currently being violated by the DOL in the name of bison "management". Please support SB 148, with the amendments we suggested above, to address this injustice.

Sincerely,



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**Montana Code Annotated - 2007**

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**81-2-121. Taking of publicly owned wild buffalo or bison that are present on private property -- notice -- supplemental feeding -- penalty.** (1) This chapter may not be construed to impose, by implication or otherwise, criminal liability on a landowner or the agent of a landowner for the taking of a publicly owned wild buffalo or bison that is suspected of carrying disease and that is present on the landowner's private property and is potentially associating with or otherwise threatening the landowner's livestock if:

(a) the landowner or agent notifies or makes a good faith effort to notify the department in order to allow as much time as practicable for the department to first take or remove the publicly owned wild buffalo or bison that is present on the landowner's property;

(b) the landowner or agent makes a good faith effort to notify the department that a taking has occurred and to retain all parts for disposal by the department; and

(c) the landowner or agent is not in violation of subsection (2).

(2) A person may not intentionally provide supplemental feed to game animals in a manner that results in artificial concentration of game animals that may potentially contribute to the transmission of disease. A person who violates this subsection is guilty of a misdemeanor and is subject to the penalty provided in [87-1-102\(1\)](#). This subsection does not apply to supplemental feeding activities conducted by the department for disease control purposes.

**History:** En. Sec. 3, Ch. 540, L. 1995.

Provided by Montana Legislative Services

**87-1-229. Entry on private land -- policy.** It is the policy of the department to meet with and work cooperatively with individual private landowners on policies regarding entry of the department to private landowners' land and to work with public and private land managers to resolve and reduce user conflicts.

**History:** En. Sec. 1, Ch. 268, L. 1995.